

haven't already left—the people who got us where we are today.

I am amazed when I look at the fact that we are providing such a different standard between those on Wall Street, who got us into this mess—AIG and others receiving taxpayer money—and what I see happening with my own auto industry in Michigan, employing directly or indirectly 3 million people. Where is the equivalent of the auto task force? I can tell you that every single line in every single budget, every single management plan, every part of the auto companies that has received a small fraction of what AIG has received has been gone through and is continuing to receive great scrutiny. I support that. They certainly are willing to do that. But where is the scrutiny on AIG? Where is the scrutiny on the other companies that have taken huge amounts of money from taxpayers?

I find it incredible when they say they can't renegotiate contracts. Somebody should tell that to the United Auto Workers, who are renegotiating contracts right now, who have opened their contracts over and over again, with workers taking more and more cuts, paying more and more in health care. Yet we hear from this company and these executives with AIG that they have contractual agreements and they can't reopen contracts? I don't think there is anybody in my State who believes that is not possible, given what our families have gone through over and over again, with people who thought they had jobs, thought they had contracts but suddenly do not.

Why is it the people who got us into this mess—with their complicated leveraging, the tools they put together that created this house of cards that has fallen and affected not only everyone in America but around the world—can't be asked to step up and reopen contracts? I don't understand that at all.

We are going to do everything we can in order to get that money back for the American taxpayers. We have seen bills introduced, and I am proud to be co-sponsoring one of those bills through the Finance Committee. Our leader, Senator REID, has asked us to move as quickly as possible, and I know the Speaker of the House has as well, as has the President of the United States, and we are going to do everything we can to be able to recoup those dollars.

When we talk about what is moral in this country, whether it is the budget, whether it is bonuses of millions of dollars for people who have hurt so many, caused so much damage, created such a crisis around the world or whether it is looking at what is happening to families every day, this is a moral issue. This is a question of right and wrong. It is a question of our priorities. The budget the President has proposed focuses us back on what is important for this country, and it is critical we get that budget passed. We have middle-

class families across the country right now, and really all families, who never thought they would have to worry about trying to decide whether to buy groceries or to buy medicine; worrying about what happens tomorrow—will there be food tomorrow. People are going to food banks who never thought they would have to go to a food bank. People who used to donate to the food bank are now going to the food bank, and others who have been relying on the food banks for a long time find it is getting tougher and tougher and tougher.

More than 11 percent—in fact, close to 12 percent—of the people in my State do not have jobs right now. They are unemployed. That is only the official number. That doesn't count those who have been long-term unemployed, unable to find work and are no longer counted. It also doesn't count the number of people who are working one, two, and three part-time jobs trying to hold it together. That is a moral issue.

The reason we tackled this recovery plan and so quickly brought it forward—to create jobs that we create in America, jobs in a green economy, focusing on job training and education and health care for people who have not been able to find a job so they will be able to keep health care going for their families—is because we understand what this is all about in terms of our values and priorities. Millions of families are in danger of losing their homes or have already lost their homes which is why we are focused on doing everything we can to help families, neighborhoods, and communities address the housing crisis. We know that education is the key to the future for all of us, for our children and our grandchildren. Keeping education a priority and investing in the future, in education and access to college, is a critical part of our budget because it is a critical part of the American dream.

Yes, I am outraged about AIG giving away millions in bonuses—absolutely. I am outraged about other injustices going on, about the focus over the last 8 years on those who are doing well and policies that made sure they were doing even better, oftentimes at the expense of middle-class Americans, at the expense of the majority of Americans in this country. I am outraged that billions of dollars are going to companies that do not have accountability attached to them. I know the people in Michigan are as well. But I also believe it is critical that we not only get the money back from these bonuses and provide the accountability but we redirect back to the priorities of the American people. That is what this budget is all about.

We need jobs. We need jobs in this country because, if people have money in their pockets and they can pay their bills and keep that mortgage and invest in their families' education, this country is going to turn around.

The budget the President has proposed, the budget the people with

whom I met this morning are so encouraged about, is, in fact, a moral document. It changes the way this country has been operating—from a culture of greed, where somehow bonuses for AIG made sense to somebody somewhere in AIG, to a situation where we are focused again on what is important for the majority of the American people, what will allow us to be strong as a country: putting people back to work; making sure we have access to health care, which is not only the moral thing to do but brings down costs; education and investing in a new energy economy that is not dependent on anybody else but American ingenuity. That is what is in this budget, and it is a budget that reflects the priorities and the values of the American people. We need to come together in a bipartisan way to pass this as quickly as possible.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNET). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF RONALD KIRK TO BE UNITED STATES TRADE REPRESENTATIVE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Ronald Kirk, of Texas, to be U.S. Trade Representative.

The PRESIDING OFFICER. Under the previous order, there will be 90 minutes of debate on the nomination, with the majority controlling 30 minutes and the Republicans controlling 60 minutes.

The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, as you noted, we will consider the nomination of Mr. Ron Kirk as the next U.S. Trade Representative.

With some reluctance, I will vote to confirm Mr. Kirk's nomination. I think it is pretty obvious Mr. Kirk has been less than forthcoming on a number of trade issues that affect this country, and some of the positions he has articulated are very dangerous for this Nation's future. I have come to this floor on numerous occasions and argued against the provisions that have

been signed into law in omnibus bills recently, one of them "Buy American," the other, of course, the latest being the barring of Mexican trucks into the United States of America.

The signal that sends to the world is that the United States is on a path of protectionism. That shows at least a majority of Members of this body have ignored the lessons of history. That lesson, obviously, we learned in the Great Depression, when isolationism and protectionism turned our economy from a deep recession to the worst depression of modern times. That is what protectionism and isolationism does.

So we now have a predictable result of killing the program which would allow, in keeping with the North American Free Trade Agreement, a solemn treaty signed by then-President Clinton, that Mexican trucks would be allowed into the United States.

Before I go much further, though, I wished to comment on the issue that is consuming the American people and the Congress today; that is, the AIG bonuses paid to executives. The simple lesson is, if we had not bailed out AIG, we would not be worried about the bonuses. I spoke out against the bailout of AIG at the time when it was first proposed when AIG was in trouble.

I, along with every other American, share anger and obvious displeasure that these bonuses were given to executives who obviously did not deserve them. But we should not have bailed out AIG. We should have let them fail and reorganize.

I would also like to point out that another area of the bailout that Americans should be equally disturbed about is the \$20 billion that went to foreign banks. American taxpayers are paying now \$20 billion to bail out foreign banks. Have we not enough trouble here at home and enough areas of the country that need Government assistance than to send \$20 billion to foreign banks?

There is an obvious need for increased transparency, increased oversight, and far more careful stewardship of American tax dollars. The numbers we are talking about are, indeed, staggering. I would point out, again, we are committing generational theft by these kinds of expenditures of American taxpayers' dollars and mortgaging our children and grandchildren's future.

The direction of our trade policy has hardly been more important in recent years, given the enormous economic challenges we are facing today, with unemployment rising, consumer confidence dropping, and our growth rate stagnating, at best.

American exports. American exports have been one of the few bright spots in a terrible economic situation. Until last quarter, the export sector of our economy grew at a faster rate than other sectors during the past several years. In the face of this fact, and mindful of history lessons, Congress and the administration should be working to break down remaining barriers to trade.

However, we are doing the opposite. Since the beginning of this year, Congress and the administration have taken several steps designed to choke off access to the U.S. market which invites retaliation from our foreign trading partners.

American business and workers will suffer as the result of these ill-considered moves. Last month, as I mentioned, Congress adopted and the President signed into law—again, one of the consequences of these omnibus bills that are thousands of pages, that nobody knows what is included, they are designed to be a "stimulus" or "spending bill," and we stuff policy provisions in them, which people may not know about for weeks or even months.

We find out that these are egregious in the case of "Buy American" and in the case of the American trucks. Both of them send a signal to the world that America is going down the path of protectionism.

The results, as far as Mexico is concerned, are unfortunate, very unfortunate, but predictable. The reaction of our friends and allies throughout the world to the "Buy American" provisions is predictable. They are angry and they are upset. I cannot say I blame them.

Now, the "Buy American" provision required funds appropriated in that bill—this is a policy change, remember, adopted in a "stimulus package," that we purchase only American-made steel, iron, and manufactured goods.

As we debated this provision, many of our closest partners expressed great concerns about the implications of this course of action. The Canadian Ambassador to the United States wrote:

If Buy America becomes part of the stimulus legislation, the United States will lose the moral authority to pressure others not to introduce protectionist policies. A rush of protectionist actions could create a downward spiral like the world experienced in the 1930's.

When then-Candidate Obama said he would "unilaterally renegotiate" the North American Free Trade Agreement, the Canadian response was: Yes, and if you do that, then we will sell our oil to China. Then, later, Candidate Obama changed his position to saying: Well, that wasn't exactly what he meant. Then, President Obama said: Now we are in favor of free trade. But yet President Obama did not veto either one of these bills, which sends a signal to the world that the United States has embarked on a protectionist path. He should have vetoed those bills, especially the one on Mexican trucks.

A European Commission spokesman noted:

We are particularly concerned about the signal that these measures could send to the world at a time when all countries are facing difficulty. Where America leads, many others tend to follow.

Others lent their own voices to those cautioning against a terribly ill-timed protectionist act.

While some Senators may have taken comfort in last-minute language added

to require that implementation of the "Buy American" provisions be consistent with our international obligations, I worry very much about the effect this and other steps will have on the global trading system. For decades the United States has led global efforts toward free and open trade and investment. We abandon this leadership at our peril.

The "Buy American" provision was not the only step in the protectionist direction. There have been other protectionist measures, and we are already seeing the fallout from such unwise decisions. Mr. KIRK agreed during his confirmation hearing:

[I]f the United States raises barriers in our own market, other countries are more likely to raise barriers against our products.

We have that evidence already. On Monday, the Mexican Government announced it will increase tariffs on 90 American agricultural and manufactured goods in direct retaliation for our recent decision to ban Mexican trucks from traveling beyond commercial zones. Although the Mexican Government is yet to specify the 90 different goods, it has announced that its decision would affect \$2.4 billion worth of exports from 40 States. The Mexican Ambassador had an article in the Wall Street Journal this morning.

I ask unanimous consent that it be printed in the RECORD, along with an editorial from this morning from the Arizona Republic.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 18, 2009]

CONGRESS DOESN'T RESPECT NAFTA

Nobody can argue that Mexico hasn't worked tirelessly for more than a decade to avoid a dispute with the United States over Mexican long-haul trucks traveling through this country. But free and fair trade hit another red light this past week.

Back in 1995, the U.S. unilaterally blocked the implementation of the North American Free Trade Agreement's cross-border trucking provisions, just as they were about to enter into force. In response, and after three years of constant engagement, Mexico had no alternative but to request the establishment of an arbitration panel as allowed under NAFTA. A five-member panel, chaired by a Briton and including two U.S. citizens, ruled unanimously in February 2001 that Washington had violated the trucking provisions contained in NAFTA, authorizing Mexico to adopt retaliatory measures. Yet once again, Mexico exercised restraint and sought a resolution of this issue through further dialogue.

Unfortunately, Mexico's forbearance only seemed to make matters worse. In 2002, Congress introduced 22 additional safety requirements that Mexican trucks would have to meet, a measure that was clearly discriminatory as these requirements were not applied to U.S. and Canadian carriers operating in the U.S. Mexico worked assiduously with the U.S. administration to find a solution to this problem.

Finally, in 2007 an agreement was reached that included the implementation of a demonstration program in which up to 100 carriers from each nation would be allowed to participate. This program was designed precisely to address the concerns voiced by

those opposed to cross-border trucking. The demonstration program, launched in September 2007, was an unmitigated success. During the 18 months that the program was in operation, 26 carriers from Mexico (with 103 trucks) and 10 from the U.S. (with 61 trucks) crossed the border over 45,000 times without any significant incident or accident. Moreover, according to reports of both the Department of Transportation's inspector general and an independent evaluation panel, Mexico's carriers participating in the program have a safety record far better than that of all other carriers operating in the U.S.

The demonstration program also underscored the benefits of free and fair cross-border trade, given the lower costs that would result from ending the requirement that short-haul trucks be used to transfer cargo at the border from the long-haul trucks of one country to those of the other. Thus, for example, one participating carrier saved over \$600,000 a year by cutting trip times and fuel costs, while another saved an estimated \$188,000 in transfer fees in the nine months that it participated in the demonstration program.

These savings benefit consumers and enhance North American competitiveness. Moreover, a streamlined system would also cut pollution, since fewer and newer Mexican long-haul trucks would replace smaller and older trucks that now huff and puff their way to the border. Unfortunately, notwithstanding these benefits to businesses and workers, and to the safety of our roads and the health of our environment, a small but vocal group has consistently blocked progress on this issue. It has now finally managed to stop the demonstration program by defunding it through the 2009 omnibus spending bill.

In confronting this situation, the government of Mexico—after over a decade of dialogue and engagement in which it has asked for nothing more than U.S. compliance with its international commitments and with the rules of the game that provide for a level playing field—has had no alternative but to respond by raising tariffs on 90 U.S. products that account for approximately \$2.4 billion in trade.

Today, opponents within Congress continue to allege concerns related to the safety of America's roads—yet they cancelled the very program designed to address such concerns, and which had been producing positive results. After all, the cross-border trucking program that was defunded had been demonstrating not only compliance by Mexico's long-haul trucks with U.S. regulations, but a superb and unmatched record of safety. It is precisely because of our firm belief in the importance of cross-border services that the government of Mexico will continue, as a sign of good-faith and notwithstanding the countermeasures announced early this week, to allow U.S. carriers to provide trucking services into Mexico under the now-defunct demonstration program guidelines and criteria.

Mexico is the U.S.'s second-largest buyer of exports. It remains a steadfast supporter of free and fair trade, and will continue to work actively and responsibly during the coming weeks and months with Congress and the administration to find a solution that will allow safe Mexican trucks onto U.S. roads under Nafta rules.

[From the Arizona Republic, Mar. 18, 2009]

U.S. IN THE WRONG BY BLOCKING MEXICAN TRUCKS

America is picking a food fight with Mexico over trade. Congress set it off by canceling a pilot program that allowed Mexican

trucks to operate on U.S. highways—a blatant violation of the North American Free Trade Agreement.

Mexico responded Monday by announcing that it will jack up tariffs on 90 U.S. agricultural and manufactured products. About \$2.4 billion worth of exports from 40 states will be affected.

Under NAFTA, we agreed to give Mexican trucks access beginning in 1995, increasing efficiency and lowering costs for consumers.

But U.S. trucking interests and unions have been trying to block the move for years with scare stories about safety. Actually, thousands of Mexican trucks, which were grandfathered in, have operated safely here for years. The pilot program set high standards for vehicles and drivers. The real issue isn't safety but competition and profits.

President Barack Obama, who was cool to NAFTA during the campaign, must step up to ensure the United States finally follows its treaty obligations. The White House says he is working on a new version of the pilot program that responds to congressional concerns. It needs to happen quickly.

Sen. John McCain, R-Ariz., is sounding a timely warning that this dispute could lead to more protectionist measures.

Let the trucks roll.

Mr. MCCAIN. The Mexican Ambassador says, in part of his article:

The U.S. Congress, which has now killed a modest and highly successful U.S.-Mexico trucking demonstration program, has sadly left my government no choice but to impose countermeasures after years of restraint and goodwill.

Then and now, this was never about the safety of American roads or drivers; it was and has been about protectionism, pure and simple.

He is right. It is also a testimony to the influence of the Teamsters Union. Elections have consequences.

He goes on to say:

It is worth noting that this takes place shortly after Mexico announced it would unilaterally reduce its industrial tariffs from an average of 10.4% in 2008 to 4.3% by 2013, and that it has underscored its commitment, along with its other G-20 partners, to push back on protectionist pressures.

What has been particularly frustrating in this long and uphill battle has been the fact that the Congress continues to move the goalposts.

Importantly, he concludes:

Mexico is the U.S.'s second largest buyer of exports. It remains a steadfast supporter of free and fair trade, and will continue to work actively and responsibly during the coming weeks and months with Congress and the administration to find a solution that will allow safe Mexican trucks onto U.S. roads under Nafta rules.

Again, NAFTA was signed by President Clinton 14 years ago. Part of that agreement was that Mexican trucks would be allowed into the United States. Study after study has concluded that Mexican trucks operate as safely as U.S. trucks do.

Today, on goods America buys coming from Mexico, the truck, after crossing the border, if it is Mexican, has to stop. The goods are offloaded onto another truck, moved to another truck that is American-owned and loaded on-board that truck. Meanwhile, there are CO₂ emissions and the cost and expenses of the delay are passed on to the American consumer.

I repeat, Mexico is the third largest trading partner of the United States, behind Canada and China, and the United States ranks first among Mexico's trading partners. United States trade with Mexico totaled \$368 billion in 2008. We have close and growing ties between our two Governments. Right now there is an existential threat to our southern neighbor from drug cartels. The violence on the border is at unprecedented levels. Acts of cruelty and murder are taking place beyond belief. People are being beheaded. There is the assassination of police chiefs and others. The corruption is very high. Why should we care? One reason we should care is because of violence spilling over from the Mexican border into ours.

The other reason is, there is between, according to estimates, \$10 and \$13 billion worth of revenue in receipts from the sale of drugs in the United States. It is the United States that is creating the market that is creating the drug cartels and violence on the border that has ensued. The Mexican Government is trying—maybe for the first time in as serious a way as they are now—to bring under control these cartels. The corruption reaches to the highest level. The violence is incredibly high. We need to do what we can to help the Mexican Government bring these cartels under control and try to eradicate them because they do pose an existential threat. We cannot afford to have a government that is full of corruption and controlled by drug cartels on our southern border, not to mention the impact it has on illegal immigration.

What did we do? We took steps in violation of our obligations under the North America Free Trade Agreement that will have precisely the opposite effect and have prompted retaliation that will only serve to harm American workers, consumers, and our Nation's relationship with Mexico.

During these difficult economic times for many American businesses, the ability to sell products on the world market is essential to our economic recovery. The Financial Times wrote in an editorial published yesterday:

The retaliatory duties are a legitimate response to a U.S. violation of a trade deal . . . but this does not bode well for bilateral relations just under two months into the Obama administration.

It goes on:

We hope cooler heads prevail and prevent any deterioration of the bilateral relationship. Both nations have too much at stake—and trade as well as security issues.

I could not agree more.

The Arizona Republic published an editorial that reads:

With the economy in tatters, it's no time to mince words: The United States is in the wrong. Under NAFTA, we agreed to give Mexican trucks access beginning in 1995, increasing efficiency and lowering costs for consumers.

The editorial continues:

Around the world, countries are considering trade barriers that could have disastrous consequences for the world economy.

The United States must put the brakes on trade restrictions, not fuel them.

I am aware there is a sizable block of public opinion that believes we should close our borders to everybody and everything, that somehow Mexican trucks are unacceptable, that legal immigration is something we ought to do away with. I understand all those arguments. But I also urge those who say that trade with Mexico is not important to understand the facts: They are our third largest trading partner; we have a trade surplus; it is important to have our relationship good as we help them battle the drug cartels; and, most importantly, protectionism and high tariffs led to the Great Depression.

Congress passed NAFTA in 1993 and President Clinton signed it into law in 1994, which mandated the opening of our southern border to Mexican trucking operations to allow the free flow of goods and services between the two countries. Last year, language was slipped into a fiscal year 2008 spending bill that sought to strip funding for a pilot program with Mexico that would allow a limited number of Mexican trucks to enter the United States. Now the administration says it will try to create "a new trucking project that will meet the legitimate concerns" of Congress. I don't understand how the administration can create a new trucking project to comply with NAFTA, when Congress explicitly barred any money from being spent toward such activities. The President should not seek to create a new project to circumvent the terms of the legislative language. Rather, he should have vetoed it in the first place.

The administration's eliminating the Mexican cross-border trucking program will harm millions of American consumers who could benefit from lower prices on many goods manufactured in Mexico and then distributed in the United States.

According to the U.S. Department of Transportation, refusing entry into our country of Mexican trucks carrying Mexican-made goods adds \$400 million to the price of Mexican imports which is, of course, passed on to the American consumer. Mr. Kirk has made some statements broadly supportive of international trade, but he has also made comments suggesting protectionism might not be so bad after all. During his confirmation hearing, Mr. Kirk stated:

Not all Americans are winning from [trade] and our trading partners are not always playing by the rules.

He suggested the administration may abandon the free-trade agreement we have concluded with South Korea, one projected to increase the United States GDP by \$10 to \$12 billion. He said the pact "simply isn't fair." He emphasized he does not have "deal fever" when it comes to trade agreements. Again, it is up in the air as to what the fate of the Colombia Free Trade Agreement would be, sending a clear signal that we would be punishing the Colombian Gov-

ernment for their assistance in trying to combat drug cartels.

Our trading partners, including Canada and Mexico, don't seem interested in strengthening agreements that have served them and us well for years. Rather, they would like to see the United States fulfill its own trade obligations and look for further ways to open markets to the free flow of commerce. The free flow of commerce has been a founding principle of U.S. economic policy for many decades and a key factor in our rise to prosperity and greatness. It is for this reason I hope Mr. Kirk and his colleagues in the administration will reconsider their stance and help build, not damage, the consensus behind free trade. After all, we have seen a terribly destructive pattern unfold before.

In 1930, as the United States and the world were entering what would be known in history as the Great Depression, two men, Mr. Smoot and Mr. Hawley, led the effort to enact protectionist legislation in the face of economic crisis. Their bill, the Smoot-Hawley Tariff Act, raised duties on thousands of imported goods in a futile attempt to keep jobs at home. In the face of this legislation, 1,028 economists issued a statement to President Herbert Hoover, wherein they wrote:

America is now facing the problem of unemployment.

The proponents of higher tariffs would claim that an increase in rates will give work to the idle. This is not true. We cannot increase employment by restricting trade.

Mr. Smoot, Mr. Hawley, and their colleagues paid no attention to this wise admonishment, and the Congress went ahead with protectionist legislation. In doing so, they sparked an international trade war as countries around the world retaliated, raising their own duties and restricting trade, and they helped turn a severe recession into the greatest depression in modern history.

I do not intend to oppose the President's nominee for U.S. Trade Representative. I remain very concerned about the direction of our trade policies at a time of economic peril. I urge my colleagues and the administration to heed the lessons of economics and heed the lessons of history.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that the vote on confirmation of the nomination of Ron Kirk occur at 2 p.m. today, with the remaining provisions of the previous order governing the consideration of this nomination in effect; that upon resuming legislative session, the Senate then proceed to vote in relation to the following amendments in the order listed; further, with respect to H.R. 146 and the provisions of the order governing vote sequences remaining in effect: Coburn amendment No. 680, Coburn amendment No. 679, Coburn amendment No. 675.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I be allowed to speak for up to 8 minutes as in morning business and that the time not count against debate time on the Kirk nomination.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ENDING STEALTH BONUSES

Mr. FEINGOLD. Mr. President, I come to the floor to discuss taxpayer-funded bonuses. These bonuses are paid every year, often without any public discussion or a recorded vote by those with the authority to approve or stop them. The people giving themselves these bonuses have made sure they get them regardless of their performance.

I am referring to the annual bonuses given to Members of Congress.

There is some good news to report on this issue today. Thanks to the leadership of majority leader HARRY REID, we took an important step yesterday. Senator REID moved legislation through the Senate that will end these annual stealth bonuses. I have introduced legislation similar to Senator REID's bill for the past six Congresses, and I am delighted, because of Senator REID's leadership, this proposal has finally passed the Senate.

Congress has the power to raise its own pay. While some corporate executives apparently have this power as well, it is something most of our constituents cannot do. Because this is such a singular power, I think Congress ought to exercise it openly and subject to regular procedures, including debate, amendment, and, of course, a vote on the record.

But current law allows Congress to avoid that public debate and vote. All that is necessary for Congress to get a pay raise is that they do nothing, that nothing be done to stop it. The annual bonus takes effect unless Congress acts.

As I noted in a statement yesterday, that stealth bonus mechanism began with a change Congress enacted in the Ethics Reform Act of 1989. In section 704 of that act, Members of Congress voted to make themselves entitled—entitled—to an annual raise equal to half a percentage point less than the employment cost index, which is one measure of inflation.

On occasion, Congress has actually voted to deny itself a bonus, and the traditional vehicle for the pay raise vote is the Treasury appropriations bill. But that vehicle is not always made available to those who want a public debate and vote on the matter. As I have noted in the past, getting a vote on the annual congressional pay raise is a haphazard affair, at best, and it should not be that way. The burden should not be on those who seek a public debate and a recorded vote on the Member pay raise. On the contrary,

Congress should have to act if it decides to award itself a hike in pay. This process of congressional bonuses without accountability must end.

I joined with the junior Senator from Louisiana in offering an amendment to the Omnibus appropriations bill recently. That amendment received strong support—support which was all the more remarkable because many of the amendment's potential supporters felt constrained to oppose it in order to keep the underlying legislation free of amendments. Now, thanks to our majority leader, we have a real chance to end this system in fact.

This issue is not a new question. It was something our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. On September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the States.

Although the amendment on pay raises languished for two centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin State Senate, I was pleased to help add Wisconsin to the States ratifying the amendment. Then its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by three-fourths of the States.

So the 27th amendment to the Constitution now states:

No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.

I honor that limitation. Throughout my 6-year term, I accept only the rate of pay Senators receive on the date on which I was sworn in as a Senator. I return to the Treasury any cost-of-living adjustments or bonuses during my term. I do not take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th amendment, and, at the very least, the stealth pay raises permitted under the current system certainly violate that spirit.

This practice must end. I am so delighted to express my thanks to Majority Leader REID. Because of him, we have a real chance of ending it.

Today I am sending a letter to Speaker PELOSI asking that the other body take up and pass the Reid legislation to end the automatic congressional bonuses. Doing so would assure the American people that we are not only serious about going after the abusive bonuses paid to the executives of firms bailed out with taxpayer dollars, but we are also serious about ending a system that was devised to provide Members of Congress with bonuses without any accountability.

Mr. President, I yield back whatever time I have remaining.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I might ask, what is the pending business?

The PRESIDING OFFICER. The Kirk nomination is before the Senate.

Mr. BAUCUS. I thank the Chair.

I would like to speak on the Kirk nomination.

Mr. President, Ralph Waldo Emerson said:

[T]he most advanced nations are always those who navigate the most.

Today, the Senate considers the nomination of Mayor Ron Kirk to be U.S. Trade Representative. As we consider the nomination, America is navigating a shifting economic landscape. And so are our trading partners.

As financial systems weaken, protectionist sentiments strengthen. As markets crumble, import barriers rise. And as jobs disappear, trade violations emerge.

Ron Kirk has been asked to navigate U.S. trade policy through these difficult waters. To ensure that America keeps moving forward, he must navigate the right course.

Many feel our trade policy has veered off course. They argue the Government has not safeguarded our workers. They argue the Government has not enforced our trade agreements. They argue the Government has not dismantled barriers to our exports.

I believe Mayor Kirk will chart the right course. He understands he must steady the tilting ship of public opinion. He will do so by rebuilding America's faith in the benefits of international trade. He will remain constantly on the lookout for America's workers. He will shine a spotlight on trade violations. He will vigilantly enforce our international agreements. He will speed our economic recovery by opening markets for American exports.

Let us chart the right course on international trade. Let us rebuild America's faith in our trade policy. Let us confirm Ron Kirk to be the U.S. Trade Representative.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, the nomination before the Senate is critically important in this time of economic upheaval.

We need a U.S. Trade Representative to assert our rights, defend our interests, and negotiate new market opportunities for our exporters.

Trade can and should play an important role in our economic recovery. President Obama recently acknowledged this in his trade policy agenda.

If Mayor Kirk is confirmed today, I look forward to working with him to advance a progrowth trade agenda for the benefit of U.S. consumers and producers.

We have a lot of work to do, some of which is left over from the last Congress. By that I am referring to our three pending trade agreements with Colombia, Panama, and South Korea.

We also need to find a way to reinvigorate the Doha Development Round negotiations in the World Trade Organization.

I appreciate Mayor Kirk's engagement and enthusiasm to assume the responsibilities of the U.S. Trade Representative.

Based on his responses to my questions during the vetting process in the Finance Committee, there appear to be some policy areas in which our views converge.

There are some other areas in which I continue to have concerns, particularly where his responses provided insufficient detail to determine whether we can have a convergence of views.

But that said, if Mayor Kirk is confirmed, I believe that we will be able to work together on a positive trade agenda.

During the committee vetting process, several issues arose with respect to the nominee's tax returns.

I am grateful for Mayor Kirk's cooperation with me, Chairman BAUCUS, and the Finance Committee staff.

In the true spirit of transparency and cooperation, he responded to all questions about his taxes directly and honestly.

He also agreed in communications with the staff to release information about his tax issues, and that information was put into the record of the committee proceedings.

I believe that all nominees should be held to the same standard when it comes to compliance with the tax laws.

Mayor Kirk was required to amend his returns and pay additional tax as a result of the vetting process.

Each of the issues for which he amended his returns was considered by him and his preparer at the time the returns were prepared. However, upon further review of some of the calculations, he agreed that some of them needed to be changed. Those issues are now resolved.

In closing, Mayor Kirk is a strong nominee for the position of U.S. Trade Representative.

He brings enthusiasm and energy to the table, as well as first-hand experience and understanding of the benefits of liberalized trade.

I urge my colleagues to support his nomination.

Mrs. HUTCHISON. Mr. President, I rise today to speak about Ron Kirk, the nominee for whom we will vote in the next few minutes for U.S. Trade Representative. I wish to speak in strong support of Ron Kirk to serve as U.S. Trade Representative. I would have been here sooner, but as ranking member of the Committee on Commerce, I was holding a hearing with the chairman, JAY ROCKEFELLER, on Governor Locke to be Secretary of Commerce, and that was my responsibility that I certainly had to meet.

I will say that Governor Locke did a very good job before our Commerce Committee. We just, within the last hour, concluded that hearing. But I wanted to make sure that I am able to speak about Ron Kirk because, certainly, I know him. I have known him for many years. We both live in Dallas, and he and I enjoy a great relationship. I was in the Senate when Ron Kirk was the mayor of Dallas, and he did a wonderful job as mayor of our city. I worked with him as a Senator. I know he can get things done. He is very bright, very affable, really funny. He is the kind of person you want to sit next to in a very dull speech because he can make you laugh no matter how bad the summit or the speech or whatever the business of the day. He is a very rare, wonderful person.

During his time in office, Mayor Kirk expanded Dallas's reach to the world through a range of trade missions, trying to show that Dallas was open for business, and he traveled on trade missions to assure that would happen. While he was mayor he sponsored a competition every year for small businesses to highlight those competing in foreign markets and invited the winner to go on his trade mission trips. I think it is important as a former small business owner myself that we show how you can export to foreign countries, no matter how small your business is, if you just know how to pursue it. Mayor Kirk tried to ensure that small businesses in Dallas, as well as our big businesses, were able to have a place at the table when he was on trade missions, showing what could be done with trade.

Before becoming mayor of Dallas, Ron Kirk was secretary of state of Texas. He was an appointee of Gov. Ann Richards. He attended Austin College, graduating with a degree in political science and sociology in 1976 and then went to the University of Texas Law School, which is also my alma mater. Upon receiving his J.D. in 1979, he practiced law until 1981 when he went to work in the office of then Texas Senator Lloyd Bentsen who was my immediate predecessor in this Senate seat.

On a personal note, Ron is married to Matrice Ellis Kirk. She, in her own right, is a professional woman, a leader in Dallas, another very bright, affable person who has made her own impression in Dallas as well. They have two daughters, Elizabeth Alexandria and Catherine Victoria.

I know that Mayor Kirk's leadership and experience will make him a strong ambassador for U.S. trade policy. Last week in his testimony before the Senate Finance Committee, Mayor Kirk pledged that as U.S. Trade Representative, "I will work to increase opportunities for American entrepreneurs in the global marketplace."

These economic opportunities are critical to America's prosperity. In 2007, exports accounted for 40 percent of our economic growth.

The next U.S. Trade Representative will face a series of challenges, including revitalizing the stalled WTO talks and managing the Doha Round, which is preoccupied with topics such as export subsidies, tariffs, copyright issues, and keeping markets open to U.S. goods. Equally important, the next U.S. Trade Representative will face the worst economic downturn in decades in America and in the world.

As we face economic hardships, trade presents a tremendous opportunity to sustain and create jobs, expand economies, and stimulate growth. We must resist the temptation to close our borders and engage in protectionism, which always ends up harming our economy.

History is not kind to those who raise trade barriers during a recession. In 1930, President Hoover made the mistake of signing the Smoot-Hawley tariff, which dramatically increased the cost of imports and turned a serious recession into the Great Depression. We can't allow that to happen again. My heavens, if we know anything, it is that we should learn from history. The past is prologue.

I believe trade policy can play a leading role in getting the U.S. economy and the global economy back on track.

Currently, the United States has free-trade agreements in effect with 14 countries: Canada, Mexico, Israel, Jordan, Chile, Singapore, Australia, Morocco, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Bahrain. However, we still have free-trade agreements with Colombia, Panama, and South Korea that await congressional approval.

The next U.S. Trade Representative must work with Congress to implement those trade agreements and ensure that American exports enter the global market on a level playing field. I am pleased that in his testimony before the Senate Finance Committee, Mayor Kirk committed to work with Congress to develop "benchmarks" that will allow these accords to move forward.

The Colombian Free Trade Agreement in particular will be tremendously beneficial to the United States, both economically and diplomatically. This accord would remove tariffs on the \$8.6 billion of U.S. agricultural exports to Colombia every year.

While America's economic growth is a primary objective of free-trade agreements, they also serve the broader purpose of bolstering our foreign policy.

At a time when Venezuelan dictator Hugo Chavez is trying to undermine U.S. security interests in Latin America, we must seek trade partnerships with allies such as Colombia.

As the Washington Post said in an editorial: "A vote for the Colombia deal would show Latin America that a staunch U.S. ally will be rewarded for improving its human rights record and resisting the anti-American populism of Venezuela's Hugo Chavez."

By helping Colombia and other countries thrive under the free market, we

will help them become less vulnerable to Chavez's petrodollars.

I am hopeful that Mayor Kirk will take the necessary steps to ensure that the Colombian Free Trade Agreement is approved.

Let me say that I think probably the first issue the U.S. Trade Representative will have to focus on and solve is with Mexico. This week Mexico threw up tariffs on 90 products that are imported to Mexico from the United States. Most of these are agricultural products. It will hurt our agriculture businesses if we have a trade war with Mexico; if we have tariffs that increase the price of American goods into Mexico. We all know this must be solved.

I will say that the person who understands this best is Ron Kirk. Ron Kirk, obviously, lives in Texas. He knows how important free trade is with Mexico. Mexico is Texas's largest trading partner. We export to Mexico, and he has been there. So he understands that this is a high priority for all of our States exporting into Mexico and that we must solve the trucking issue so that Mexico understands that there will be parity across the border and that Mexican trucks, like American trucks, will have the same safety standards and that they will have an ability to be inspected. He can solve this if we will confirm him today and let him start on this very important problem.

Throughout his career, Mayor Kirk has shown the character and leadership skills to bring people together on behalf of a good cause. For that reason, I am very confident he will make a great U.S. Trade Representative. He will seek exports of American goods all over the world. He will seek free and fair trade. That is very important—we don't want other countries to throw up barriers to our entry into their country—and he will do the right thing. I know he is a good negotiator. I know he will be a good representative of the United States in this very important position.

I urge my colleagues to support his nomination. I am pleased we are voting on him soon so that he can hit the ground running on the Doha Round and the many issues that are facing our country in this time of economic stress—when the last thing we should be doing is throwing up barriers to trade and exports from our country into other countries, where good trade makes good neighbors and partners.

Mr. FEINGOLD. Mr. President, I support the nomination of Ron Kirk to be our trade representative, despite my concerns with his position on trade policy. The tax matters that came to light during Mr. Kirk's vetting are not disqualifying, and because I am inclined to defer to any President on the choice of his closest advisers, I decided to support this nomination.

Having said that, I very much hope the President and his new trade representative will carefully review our current trade policies, and the impact

they have had on the lives of millions of Americans. The trade policies handed over to this administration are as fundamentally flawed and damaging to our economy as the fiscal disaster and financial market crisis they inherited.

The trade policies of the last two decades, under both Republican and Democratic administrations, and supported by both Republican and Democratic controlled Congresses, have undermined environmental protections, food safety and public health protections, subverted our democratic institutions, and helped ship millions of family-supporting decent paying jobs overseas. They have greatly disadvantaged thousands of small businesses in my home State of Wisconsin, exposed consumers to health risks, and decimated communities. They have accelerated the very worst aspects of globalization, and have not done nearly enough to advance its potential benefits.

Mr. President, I wish Mr. Kirk all the best in his new position, and hope he and the President will take a fresh look at our trade policy. As I noted earlier, the mess they have inherited is as big a problem as any presented to the new administration, and it deserves our full attention.

Mr. CORNYN. Mr. President, I rise today to congratulate Mayor Ron Kirk on his nomination to serve as President Obama's U.S. trade representative. I am proud to support the confirmation of my fellow Texan.

Following World War II, the United States recognized a need to engage foreign nations and harmonize global economic trade. President Kennedy recognized the value in placing a single chief U.S. trade negotiator in charge of these responsibilities. Later, President Ford elevated this important position to Cabinet rank. Since then, Congress has worked with many administrations to strengthen the ability of the U.S. trade representative to enforce existing trade agreements and open new markets for American workers, farmers, and consumers.

Mayor Kirk would lead the office of U.S. trade representative during the most challenging global financial crisis in history. The World Bank predicts that the global economy will shrink this year for the first time in more than six decades. People in many nations are suffering, and calls for new trade barriers grow louder. However, the U.S. trade representative must speak clearly and calmly against protectionism. He must show how open markets can renew global prosperity and lift millions in the developing world out of poverty.

I believe President Obama chose the right man for this job. As mayor of Dallas, Ron Kirk saw how open markets create new opportunities for our people. His trade missions to other nations encouraged new export growth. He engaged and recruited foreign investors thereby attracting new jobs into the city. And he recognized that the North American Free Trade Agreement

would bring additional export-related jobs to the region. While many roundly criticized that accord, Mayor Kirk put it to work for the residents of Dallas. His leadership in the late 1990s helped reenergize the local economy. By 2007, the Dallas-Fort Worth area was exporting more than \$22 billion of goods and services to foreign markets.

Mayor Kirk's confirmation will fill an important void in President Obama's Cabinet. Mayor Kirk has demonstrated that he will warn against protectionism. This voice is needed in the Cabinet.

Congress recently voted to suspend the cross-border transportation pilot program occurring at the southern border of my State of Texas. This short-sighted cancellation was met immediately with news that the government of Mexico will retaliate by levying new tariffs on U.S. made products.

This unfortunate situation was avoidable had my colleagues heeded warnings of the retaliation that this policy change would incur upon our economy. These tariffs amount to a \$2.4 billion tax increase on American made products, and one economist estimates a loss of approximately 40,000 jobs.

At a time when Congress should be working to expand markets for our goods and create jobs in the United States, Congress is instead provoking the ire of the customers who buy American products and services. Our workers and our consumers deserve a trade ambassador that will ensure economic policy is rooted in the best interest of the economy rather than political payback.

The President has three economic remedies available immediately. The pending trade agreements with Colombia, Panama, and Korea will create jobs in the United States. Consumers in these countries have a voracious appetite for American goods and services. My State of Texas is the top exporter to both Colombia and Panama and the second leading exporter to Korea. These destinations represented a \$9.5 billion market for Texas-made goods and services in 2008.

The hard work is over; these agreements have been negotiated and signed. I urge the administration to work with Congress and pass these beneficial accords.

Mayor Kirk is not the first choice of those who fail to recognize the benefits of free trade, but he's the first choice of the President—and a good choice for American exporters and consumers. The continuing global financial crisis demands a strong leader at USTR—and Mayor Kirk will fill this role well.

Mr. LEVIN. Mr. President, I will vote today to confirm Ronald Kirk to be U.S. Trade Representative. Although I have had serious concerns about our trade policies in the past, I am hopeful this administration will deal differently with trade.

I am reassured by some of the things that Mr. Kirk said at his confirmation

hearing. For instance, Mr. Kirk said he will put an emphasis on workers and the environment, something that his predecessors failed to do. He also has acknowledged that the pending U.S.-South Korea trade deal negotiated by the Bush administration "... just simply isn't fair." This acknowledgment is important because the U.S.-South Korea trade agreement as currently written is harmful to the U.S. auto industry and its workers and should not be pursued in its present form.

When it comes to automotive trade between the United States and Korea, the numbers speak for themselves. While Americans buy more than 770,000 Korean vehicles each year, fewer than 6,300 American autos are sold in Korea. Despite two bilateral memoranda of understanding in 1995 and 1998, Korea continues to use ever-changing standards to restrict auto imports. There is nothing in the pending agreement that guarantees Korea will open its market to U.S. automobiles even though it commits the U.S. to further opening its already open market to Korean vehicles. We should open our auto market further only after U.S. autos have gained measurable access to the Korean market but that is not how the agreement is currently written.

At his confirmation hearing Mr. Kirk agreed the U.S.-South Korea free trade agreement wasn't fair and said, "if we don't get that right we'll be prepared to step away from that." He also said, "I do not come to this job with 'deal fever.' We will not do trade deals just for the sake of doing deals."

I am pleased to hear these remarks because frankly some of the trade agreements the U.S. has entered into have not been in the best interests of the United States. The North American Free Trade Agreement, NAFTA, is a good example. NAFTA contained a number of unfair provisions that are discriminatory to Michigan workers and companies. For example, it restricted U.S.-made auto parts from entering Mexico for a decade and American used car exports for 25 years. Furthermore, the U.S. maintained small but stable trade deficits with Canada and Mexico in the 1980s and early 1990s. After NAFTA took effect in 1994, the U.S. developed large and rapidly growing deficits with Canada and Mexico. Since jobs are created by exports but displaced by imports, job losses occurred. The Economic Policy Institute found that total U.S. job displacement from NAFTA over 12 years was 1 million jobs.

Our trade policy should focus on opening markets in nations such as China, Japan, the European Union, and South Korea, where the most egregious trade barriers block the sale of U.S. goods and services and where we have the potential to export a larger quantity of goods and services. Mr. Kirk has promised to pry open foreign markets and enforce existing trade rules. I support his confirmation in the hope that he will.

I have not been satisfied with America's trade policy over the past 30 years. I believe in free trade, but I believe that with free trade we must have fair trade. The U.S. market is the most open in the world, but our policy has failed to insist that foreign markets be equally open to American products. We sorely need a new and just approach to trade.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Thank you, Mr. President. I understand that we are on the Kirk nomination; however, I ask unanimous consent to speak on the lands bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COBURN AMENDMENTS

Mrs. FEINSTEIN. Mr. President, the Senate will have before it a series of amendments to the lands bill made by Senator COBURN. I rise to oppose specifically two of these amendments, amendment No. 683 and amendment No. 675, and I do so on behalf of myself and my friend and colleague from California, Senator BOXER.

These amendments would essentially throw out a legal settlement agreement concerning the restoration of the San Joaquin River. The settlement agreement ends 18 years of costly litigation. It is the product of 4 years of negotiation by the Bush administration, the State of California, dozens of water agencies, the Friant water users—it affects Friant, and Friant is a Division of the Central Valley Project and 15,000 farmers draw their water from this Division; it is big, it is important, it is critical—and by environmental and fishing groups.

This was a suit brought by the Natural Resources Defense Council against the Federal Government saying that what was happening at Friant Dam was not sufficient in the release of water to protect the salmon.

I wish to have printed in the RECORD at the end of my remarks a letter by the Governor of the State of California, Arnold Schwarzenegger, supporting the settlement agreement, and a letter

from the U.S. Department of Justice supporting the settlement agreement. I also commend to my colleagues a Congressional Research Service Memorandum entitled "Institutional and Economic Context of the San Joaquin River Restoration Settlement," spelling out the institutional and economic context of this settlement agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. Thank you very much.

So we have broad and strong support for the settlement agreement. Now, the question is, Why do we have it? The reason we have it is because it is my understanding that the Government has lost the case, and the result is that with or without the settlement, a Federal court will require restoration of the San Joaquin River. According to all of the parties, the court could—and we believe would—order a huge release of water from Friant Dam, negatively impacting the 15,000 farms in the Friant Division of the Central Valley Project.

In contrast, the settlement agreement allows orderly restoration of the river, with minimized impacts to irrigated agricultural and municipal water users. It provides negotiated flood control and other protections for private landowners. It represents a sensible and hard-fought consensus solution. I know, because these parties came to me and asked me if I would sit down with all of the parties and try to put together this settlement agreement, and we did, in fact, do this. It is virtually supported by all of these elements.

Also, the settlement would be far less costly to the taxpayers than returning to court and having the end result of having a Federal judge manage the river. That is what the alternative is. Here is why: The settlement provides almost \$400 million in non-Federal funds, so what would have had to have been funded by the Federal taxpayers will be lowered. Effectively, the costs are lowered to Federal taxpayers. The affected water districts have agreed to help fund the settlement with approximately \$200 million. The State of California will provide another \$200 million. If the Coburn amendment is successful and this is dropped from the bill, the Federal Government will have to pay an additional \$400 million and face the fact that the judge could well order a huge release of water, not staggered to any particular time, in no orderly manner, which could have tremendous adverse impacts on the farming community.

The settlement also minimizes economic costs to the region by providing water supply certainty for users, but without the settlement water users in Friant could face more severe water losses and potentially millions of dollars of lost income and lost jobs. As I say, this is 15,000 separate farming entities, so that is unacceptable.

Critics have argued that this provision is wasteful spending and that it would cost millions of dollars for every fish restored. But the facts prove them wrong. To get the number the critics use, they assume that only 500 fish will ever be restored; that is, salmon, instead of the 30,000 salmon that will eventually return to the river each year as a self-sustaining fishery. They ignore all the other benefits of the settlement.

According to the Congressional Research Service analysis I have referenced, it is "misleading" to disregard the "full array of likely project costs and benefits," including "the values that Californians and U.S. citizens place on improvements in environmental quality and restored runs of salmon."

The bottom line: The settlement offers the best possible solution to a longstanding water fight in my State. I do not believe there is anything wasteful about it. Remember, this suit has gone on for 18 years. I have talked with every one of the parties. They have all come together asking for a settlement agreement, including the Federal Government, the State of California, and actually the environmental group that sued, the NRDC, because they believe that if left to the judge, the action might be very adverse in terms of large amounts of water, rather than being staggered and done in a more sensible way, would be detrimental to the Friant farmers as well as, quite possibly, to the fish.

The other problematic amendment offered by Senator COBURN is amendment No. 675 which would remove the Government's eminent domain authority for the public lands omnibus bill, including the San Joaquin River settlement title of the lands bill.

Now, to be candid, none of us like the use of eminent domain. In the 9 years I was mayor, I refused to use eminent domain in San Francisco and, in fact, never did. But Senator COBURN's amendment ignores the basic reality that the use of eminent domain is sometimes necessary to carry out western water projects that are vital for an entire region because the water comes from one place, the State is vast, and it has to be moved to other places, and the public benefit of moving that water is enormous in the seventh largest economy on Earth.

These water projects need to have the use of eminent domain as a last resort for building water projects and flood channels on a willing seller-willing buyer basis. Otherwise, the Government clearly is not going to be able to build water conduits, water projects, and flood control elements where they are most needed. That may be different in small States, but in huge States such as California, where the water comes primarily either from the very north of the State, the Sierra Nevada mountain range, or the Colorado River—where we are being weaned off of the Colorado River, and have an

agreement to dramatically cut our take of water from the Colorado River—we have to have the conveyances to move the water around the State.

Private landowners also receive the benefit of upgraded flood protections and bypasses around key diversion points, so that fish are not diverted along with irrigation supplies. This is a very sensitive, very problematic area. It has taken a lot of work to know how to do this. The Federal Government could not build these flood and bypass measures to benefit third party landowners without the ability to acquire land through eminent domain. That is just a fact.

There is a great need for water projects in my State. If we don't move, I believe California will end up a desert State. We are faced with high wildfire potential, with warming climates, and reduced water. We are in the third year of a drought.

Mr. President, you might be interested in knowing that for the big Central Valley of California, which makes California the No. 1 agricultural producer in America, most of that valley's water allocation from the Central Valley Project for this year is zero, which means fallowing, which means cutting out trees and crops. So we are in a very sensitive situation.

I urge the Senate to vote no on these Coburn amendments. I think it is very easy to come in and second-guess a situation and not know anything about 18 years of litigation and the fact that the Government is going to lose the case and having to try to work out a settlement, which gets the best for all of the parties concerned. I believe we have done it, and it has taken hours and hours of negotiation.

This has been approved by this body once. To remove the bill and the eminent domain authority from the lands bill would be tragic. Again, the Federal Government would have to pick up the costs the State of California is willing to pay under this settlement—\$200 million—and the cost these water contractors are willing to provide—\$200 million—and do the whole job itself, which is going to cost an additional \$400 million.

These amendments are in no way, shape, or form, cost effective, and they will hamstring California's effort to solve what is an egregious problem, and that is an increasingly drying State, which is in drought almost on a perpetual basis and is trying to solve its problems.

On behalf of Senator BOXER and I, I urge a "no" vote on both of these amendments.

Mr. President, I ask unanimous consent that my time not count against the time allocated for the Kirk nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I thank the Chair.

EXHIBIT 1

STATE CAPITOL,
Sacramento, CA, May 5, 2008.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: As Congress again considers legislation needed to implement the Settlement Agreement reached to restore the San Joaquin River, I write to reiterate my support of your leadership in this matter and to urge Congress to act now to take advantage of this historic opportunity. Restoring the San Joaquin River will provide vital benefits to the environment, to the people of the San Joaquin Valley, and to all Californians. I remain confident that this settlement can be implemented to provide these important benefits while minimizing impacts to the Friant water users and preserving the regional economy.

The state of California has already committed substantial funding to support the settlement effort. In November 2006, California voters approved Proposition 84, the Water Quality, Safety and Supply, Flood Control, Natural Resource Protection Bond, which earmarks \$100 million to support San Joaquin River restoration. Other bond funds are available to provide flood management improvements and to support regional water supply reliability projects. Moreover, I have directed my Administration to pursue all available opportunities to contribute to the dual restoration and water management goals of the Settlement Agreement.

Thank you again for your leadership to secure the passage of the necessary legislation to advance the restoration of the San Joaquin River. Please know that my Administration remains committed to this important effort and we look forward to continuing our work with the federal government on this significant restoration program.

Sincerely,

ARNOLD SCHWARZENEGGER,
Governor.

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, November 7, 2007.

Hon. NICK J. RAHALL II,
Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Justice (DOJ) strongly supports H.R. 4074, the San Joaquin River Restoration Settlement Act (originally introduced by Congressman Radanovich as H.R. 24). This bill provides necessary authorization and funding to carry out the terms of the San Joaquin River Settlement. The purpose of the settlement is to fully restore the San Joaquin River and to mitigate the impact of water losses on water districts in the Friant Division of the Central Valley Project who have long-term contractual rights and obligations with the Bureau of Reclamation. This settlement not only resolves litigation over the operation of the Bureau of Reclamation's Friant Dam east of Fresno, California, it provides a framework for the restoration of the San Joaquin River and its fishery in a way that protects the sustainability of farming in the Friant Division.

On October 23, 2006, the United States District Court for the Eastern District of California approved this settlement, ending eighteen years of litigation, Natural Resources Defense Council, et al. v. Kirk Rodgers, et al. The Administration previously announced its support for legislation implementing this settlement in testimony before your Committee on March 1, 2007, by Jason Peltier, Principal Deputy Assistant Secretary for Water and Science for the U.S. De-

partment of the Interior. The State of California has pledged its support for the Settlement in the amount of \$200 million.

Enactment of H.R. 4074 is essential to the implementation of this historic, court-approved settlement. Without this legislation, the Secretary of the Interior lacks sufficient authority to implement the actions in the settlement. Implementation of the San Joaquin River Settlement will avoid the high cost and uncertainty that will result from a return to litigation if the settlement is not implemented.

Thank you for the consideration of our views. Please do not hesitate to contact this office if we can be of further assistance in this matter. The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

BRIAN A. BENCZKOWSKI,
Principal Deputy Assistant,
Attorney General.

Mrs. FEINSTEIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time during the quorum call be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARRASSO. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. BARRASSO. Mr. President, today I wish to talk about this administration's proposed budget. I believe the President's proposed budget fails the American people. It fails small businesses, and it fails our economic future.

To me, this budget spends too much on bailouts and on wasteful Government programs. It raises the cost of energy, and it costs American jobs.

The spending in this budget is so massive that independent estimates say they are going to need another quarter million people—250,000 more Federal Washington bureaucratic workers—just to spend all the money.

Middle-class families and small businesses all across this country are taking notice. These are the people who are making the financial sacrifices every day to pay for these huge Government expenses. Yet Washington continues to spend trillions in taxpayers' dollars on bailouts and big Government programs.

This budget spends too much, it taxes too much, and it borrows too much.

This budget contains the largest tax increase in the history of our country. We need to help American industry promote growth and create jobs. I will tell you that raising taxes makes matters worse, especially in an economic downturn.

The President's plan takes money from small businesses and families in my home State of Wyoming. The President's budget will devastate the small businesses of America. The budget even limits itemized deductions for people who give money to charities. This effectively raises our Nation's top tax rate to 42 percent.

Our Treasury Secretary Geithner says the proposed changes in the tax rates would apply to only 2 or 3 percent of small business owners. But the reality is, those tax increases are going to hit hardest those small businesses which create the most jobs in our Nation.

Small businesses created a majority of new jobs in America over the last 10 years. Small businesses are responsible for 70 percent of the job creation in this Nation.

These jobs are being created by businesses similar to those that are now threatened by the administration's proposed tax increases. When we consider that the administration talks about a goal of job creation, why is this administration proposing a budget with costly tax hikes on those very engines that create the jobs in this Nation?

They say: We are going to delay the tax increases until 2010. That doesn't make those tax increases hurt any less. Small business owners plan ahead. They plan well in advance. They will not hire someone today if they know they are going to be forced to lay that person off in less than 2 years.

I want to talk a little bit about electric bills.

Electric bills and the cost of everything manufactured in America is going to skyrocket under this proposed budget. Under the Obama budget, gasoline prices are likely to go up as much as 145 percent.

The President from Duke Energy says the plan could increase energy prices for American households by as much as 40 percent.

People need to know under this plan, anything that emits carbon is going to be more expensive. This means the plastics we use, the cars we drive, the homes we heat—they are all going to be more expensive. Every time you flip the light switch, you are going to be paying much more.

The very building blocks of our Nation will be dramatically taxed. American families will experience a dramatic shift down the economic ladder.

Folks who are struggling to get by in my home State of Wyoming and all across America will fall through the cracks in this budget. It is wrong. It is time this administration leveled with the American people about the hidden details in this budget plan.

The President is proposing we spend scarce resources transferring income rather than promoting growth.

According to the President's climate proposal, taxes on carbon are projected to total over \$78 billion in 2012 and at least \$646 billion over the next 10 years.

Of that money, he proposes to spend \$1 out of every \$5—only \$1 of every \$5—on clean energy technologies. The other \$4 of every \$5 are going to go to bigger Government programs.

According to the President's budget document, his climate change proposal is more expensive than the \$646 billion he has suggested. He is hiding the true cost to the economy of his cap-and-trade scheme.

The President is also abandoning what I call 24-hour power. Under his cap-and-trade scheme, that is power that runs the factories and American homes 24 hours a day, 7 days a week. It is the power we need when renewable energy is not there—when the Sun is not shining or the wind is not blowing. We need all the energy. We need the coal. We need the nuclear. We need the natural gas. We need the hydropower. All are proven and affordable energy solutions. Those are the kinds of things that will help keep electric bills low.

If you eliminate these, you are automatically taxing all Americans with high energy bills—that is what you are doing—and that means making the cost of running a business more expensive. That means heating homes all across America will be much more expensive.

They have done some estimates, and they have estimated that the President's new energy tax will cost every household in America an additional \$250—not each year but \$250 each month.

Frankly, that is a tax increase that most American people cannot afford, and, frankly, I don't understand why the President is asking them to pay it.

In reality, the President's cap-and-trade scheme is another bailout, a trillion-dollar climate bailout.

This budget spends too much, it taxes too much, and it borrows too much.

This budget costs too much in dollars, and it costs too much in jobs. This budget hurts small businesses, and it hurts American families alike.

This budget provides for the largest tax increase in history to fund a trillion-dollar climate bailout. It is unfortunate that we are aiming and targeting small businesses because they are the very foundation of job creation in this country. It is unfortunate that this is the starting point of the debate of how to get our economy moving again.

The American people expect better. The American people demand better. The American people deserve better.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, how much time remains on the Democratic side on the nomination for USTR?

The PRESIDING OFFICER. There remains 16 minutes.

Mr. DORGAN. Mr. President, I intend to speak for 10 of the 16 minutes. I will reserve the 6 minutes for others.

Mr. President, we are dealing with the nomination of Mr. Kirk to be trade ambassador, the head of the trade office in our Government. I intend to support his nomination, but I wanted to come to the floor to take the opportunity to say that ambassador after ambassador after ambassador has left that trade office with large and growing trade deficits that I think weaken and undermine our country. And I want to make certain Mr. Kirk and others know what I think is the urgency to address these significant trade deficits.

We are a country that is consuming 3 percent more than we produce. No country can do that for a very long period of time. We are buying more from abroad than we are selling abroad—\$2 billion every single day. We import \$2 billion every day more than we export.

We are facing a very severe financial crisis in this country now. At least one of the causes of that crisis, which is never discussed by anybody, is an unbelievable trade deficit.

Our merchandise trade deficit last year was \$800 billion. You can take a look at what has happened in recent years. These red lines represent the deep hole of trade deficits. That is money we owe to other countries because we are buying more from them than we are selling to them.

Now, I am for trade, and plenty of it, but I insist it be fair, and I also believe there are mutual responsibilities of trading partners. The trade deficit, for example—in the \$800 billion merchandise trade deficit we have—with China is \$256 billion. Think of that: \$256 billion in a year. And we have very serious trade problems with China with respect to the issue of counterfeiting and piracy.

Part of what we are producing in this country these days is intellectual property—computer programming and software, various types of music and movies, and all kinds of inventions. Our intellectual property is being pirated and counterfeited on street corners all across China. And it is not as if China doesn't know how to deal with that. When China held the Olympics, they knew how to deal with their logo. There was an Olympic logo for the Chinese Olympics which belonged to the Government of China. All of a sudden, that had value, and they decided to protect that. People started showing up on street corners in China selling mugs and banners with the Chinese Olympic logo, and they shut them down just like that. They stopped it just like that because that belonged to the Government of China. Well, what about all the intellectual property that is pirated and counterfeited and reverse-engineered in China that is sold on their street corners in violation of everything, which helps result in this \$256 billion trade deficit with China?

That is something our U.S. trade ambassador has to confront.

Let me give an example—and this is just one; I could give a dozen—of part of our problem. We have a trade deficit with South Korea. Ninety-eight percent of the cars on the streets of South Korea are made in South Korea because that is what they want. They do not want foreign cars in South Korea. Our country signed two separate trade deals with Korea in the 1990s, which supposedly meant that Korea would open up their auto market. Those agreements are apparently not worth the paper they were written on. So Korea sent us 770,000 vehicles last year—770,000 Korean-made vehicles. Those are Korean jobs—vehicles made in Korea, sold in the United States. Yet we are able to sell 6,000 American vehicles in Korea. Now, think of that: 770,000 cars coming our way, and we get to sell 6,000 there. Why? Because the Korean Government doesn't want American cars on their roads. They want one-way trade, which I think results in unfairness to our country, lack of jobs in our country, and a growing trade deficit in our country that undermines our economy.

The same is true with respect to China. For example, we negotiated a bilateral trade agreement with China. Only much later did we learn the ingredients of that agreement. China is now creating a significant automobile export industry, and we will begin seeing Chinese cars on American streets in the not too distant future. They are gearing up for a very robust automobile export industry. Here is what our country agreed with in a bilateral agreement with China. We agreed that any American cars sold in China after a phase-in could have a 25-percent tariff imposed by the Chinese. Any Chinese cars sold in America would have a 2½-percent tariff. Think of the absurdity of that. A country with which we have a \$200 billion trade deficit—last year, \$260 billion—and we said: It is okay for you to impose a tariff that is 10 times higher on U.S.-made automobiles sold in your country than we will impose on your automobiles sold in our country. That is the kind of ignorance, in my judgment, and unfair trade provisions that result in our having an \$800 billion merchandise trade deficit.

Now, Warren Buffett has said—and Warren Buffett is a bright guy, and I like him, I have known him for a long while—this is unsustainable. You can't run these kinds of trade deficits year after year. It is unsustainable. Why? Because when we buy \$800 billion more from other countries than we sell to them, it means they end up with our money or a debt, and that debt will be repaid with a lower standard of living in our country.

My point is that the financial crisis in this country is caused by a lot of things, at least one of which is an unbelievable growing trade deficit that has gone on and festered for a long

while, and no administration has done much about it. Oh, the last administration, I think the last time they took action was against Europe, and they announced with big fanfare that they were going to impose tariffs on Roquefort cheese, truffles, and goose liver. That will scare the devil out of some country—Roquefort cheese, truffles, and goose liver. We not only negotiate bad trade agreements, but then we fail to enforce them. And when we do enforce them, we don't enforce them with any vigor.

Mr. President, I know there has been discussion in the last couple of days about trade with Mexico. Mexico had a \$66 billion surplus—or we a deficit with them—last year. We have had a nearly ½ trillion dollar trade deficit with Mexico in the last 10 years alone, and Mexico is accusing us of unfair trade? I am sorry. We have a ½ trillion dollar deficit with Mexico in trade relationship in 10 years, and they believe we are unfair?

The recent action by Mexico against the United States is due to the fact that a large bipartisan majority of both Chambers of Congress objected to a Mexican long-haul trucking pilot program that the Bush Administration wanted to establish. The inspector general of the Transportation Department had said that in Mexico there is no central repository of drivers' records, no central repository of accident reports, and no central repository of vehicle inspections. We don't have an equivalent system. Well, there is nothing in a trade agreement that requires us to diminish safety on our roads. When we have equivalent systems or when we have conditions in both countries that are equivalent, you will hear no complaint from me about any pilot program of this type, but that is not the case today.

Just as an aside, at a hearing I held last year, we were told that one of the rules for the cross-border trucking program was that the drivers who were coming in with the big trucks were going to be required to be fluent in English. One way they would determine whether they were fluent in English is they would hold up a highway sign, such as a stop sign, to the driver and ask him: What is this sign? And if the driver replied, "Alto," which means "stop" in Spanish, they would declare that driver fluent in English. Look, this made no sense at all. Let's make sure we protect the safety on America's roads. I have no problem with cross-border trucking as soon as we have equivalent standards. That is not now the case.

But my larger point with Mexico, as with other countries, is that we have a large and growing trade deficit—\$66 billion last year with Mexico; ½ trillion dollars in 10 years. This country can't continue that. We have to have fair trade with other countries and fair trade agreements. And when we do, it seems to me we should be aggressive in trying to sell worldwide. We are good

at this. We can prevail. We don't have to have an \$800 billion deficit that threatens our country's economy. No one talks about it much, but the fact is, this enormous deficit undermines the strength of the American economy. It sucks jobs out of our country and moves them overseas in search of cheap labor. We can do better than that.

I intend to support Ron Kirk. I think he will be a good choice. However, I hope this trade ambassador understands that while our country stands for trade and our country stands for open markets, we ought to, for a change, also stand for fair trade agreements and we ought to stand for balance in trade and get rid of an \$800 billion-a-year deficit in which we end up owing other countries a substantial amount of our future. It makes no sense to me.

So I am for trade, and plenty of it, but let's try to get it right for a change, to strengthen this country and put this country on the right track.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I ask unanimous consent to yield back all time on the Kirk nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I ask unanimous consent that H.R. 146 be the pending business.

LEGISLATIVE SESSION

REVOLUTIONARY WAR AND WAR OF 1812 BATTLEFIELD PROTECTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 146, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 146) to establish a battlefield acquisition grant program for the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Bingaman amendment No. 684, in the nature of a substitute;

Coburn amendment No. 680 to amendment No. 684, to ensure that the general public has full access to our national parks and to promote the health and safety of all visitors and employees of the National Park Service;

Coburn amendment No. 679 to amendment No. 684, to provide for the future energy needs of the United States and eliminate restrictions on the development of renewable